Co-operatives Act 1996
New Categories of Co-operatives

New Legislation

Are you aware that after the commencement of the new legislation on 1 October 1997, there will be only 2 categories of co-operatives? These are "trading", or "non-trading" co-operatives.

Under the *Co-operation Act 1981*, your co-operative was registered either as a:

- "producers society"; or

- "trading society"; or

- "community settlement society"; or

- "community advancement society",

or you could be a rental housing co-operative registered under the Housing Act 1983 or an association of co-operatives.

Transition

Every co-operative which exists at the time of the commencement of the Co-operatives Act 1996 continues to exist (with the same name, directors and membership) as the same body. In most cases it should be clear which of the 2 categories your co-operative will become. It is not clear whether the new categories will apply automatically, or whether they will be enforced as a part of the introduction of new rules for each co-operative. We have assumed the latter.

Rules and accounts

Co-operatives have 2 years from the commencement of the Act to bring their rules into compliance with the new Act. The existing rules of a co-operative are deemed to be valid until the co-operative changes its rules. Also, the provisions of the old legislation relating to accounts and audit, registers, returns and records continue to apply until the end of your financial year next following the commencement of the new legislation. For example, for those co-operatives with a June-July financial year, this will be until 30 June 1998.

Co-operative Federation of Victoria Ltd

Trading co-operatives

A trading co-operative must have a share capital. A trading co-operative gives returns on surplus to its members or pays dividends on its share capital (s.14).

Most producers and trading societies will become trading co-operatives under the new Act.

Non-trading co-operatives

It is **not** compulsory for a non-trading co-operative to have share capital. A non-trading co-operative may not give returns on surplus or dividends to its members other than the nominal value of shares (if any) at winding up. (s.15).

Most community advancement and community settlement societies, and rental housing co-operatives previously registered under the **Housing Act 1983**, will become non-trading co-operatives.

Membership Requirements - General (s.14,15)

In relation to both types of co-operative the membership requirements are as follows:

- at least 5 active members;

- 2 or more co-operatives for an association; and

- 2 or more associations for a federation.

The Act specifies that co-operatives may convert from one category to the other by making the necessary changes to their rules (s.28).

Working Examples

- A childcare community advancement co-operative would be likely to become a non-trading co-operative under the new legislation.

- An irrigation co-operative could elect to become a trading or non-trading co-operative, depending on whether it intended to distribute any surplus.

- Further examples include:

  Trading: retail co-operatives; agricultural marketing or purchase and business services co-operatives; and

  Non-Trading: housing; broadcasting; clubs; aboriginal; health and education and community benefit generally. □